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CONNECTING THE DOTS: CASE STUDIES AND EU IMPLEMENTATION RESEARCH

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Abstract

This paper is an accompanying text to the Compliance Database – the database of case studies of transposition, implementation, and compliance with EU law. (<http://www.eif.oeaw.ac.at/compliance/>). The database contains the results from the literature survey in a form that enables detailed overviews of individual studies as well as easy comparisons across studies. The database has been developed with the support of the Institute for European Integration Research at the Austrian Academy of Sciences and it is a free and regularly updated resource. The conclusions of this paper are based as much on the inferences that the database offers, as on the original articles and books that have been reviewed.

General note

*Opinions expressed in this paper are those of the author
and not necessarily those of the Institute.*

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1. INTRODUCTION

Since the early 1990s there has been an explosion of research on the incorporation of European Union (EU) law at the national level and on the related impact of the EU on the policies and institutions of its member states. This scholarship has gone under various names: Europeanization, compliance, implementation, or transposition studies. The purpose of this working paper is to review the qualitative strand of this literature. In addition, we aim to outline the bigger picture of the state of compliance with EU law by connecting the individual pieces of the puzzle presented by single case studies.

This paper is an accompanying text to the Compliance Database – the database of *case studies* of transposition, implementation, and compliance with EU law. (<http://www.eif.oeaw.ac.at/compliance/>). The database contains the results from the literature survey in a form that enables detailed overviews of individual studies as well as easy comparisons *across* studies. The database has been developed with the support of the Institute for European Integration Research at the Austrian Academy of Sciences and it is a free and regularly updated resource. The conclusions of this paper are based as much on the inferences that the database offers, as on the original articles and books that have been reviewed.

While the Compliance Database and this working paper deal exclusively with the qualitative literature on EU compliance, they are complemented by a database of *quantitative* (statistical) research on transposition, implementation and compliance with EU law (<http://www.eif.oeaw.ac.at/implementation/>) which in a similar way surveys and presents the quantitative (statistical) part of the literature (for a presentation of the database see Toshkov, 2010). Together, the two databases provide a comprehensive look at more than 20 years of scholarship on the interaction between the EU and the member states in the application of laws and policies in the European multi-level system of governance.

The results of the literature survey presented in this paper are based on a systematic reading, coding, and classification of the tens of case studies on compliance published in academic journals and books. Some might question the premise that qualitative research can be reduced to a list of variables and outcomes and their relationships. After all, it is precisely the complex accounts with numerous intermediated and reciprocal relationships and the

scrupulous attention to the causal mechanisms rather than a fixation with estimating the causal effects that are supposed to be the characteristic features of the case study as analytical method (Gerring, 2007). How can these narratives be put into the Procrustean bed of a database? We acknowledge that state-of-the-art qualitative work often presents accounts so rich that we can hardly do them justice by summarizing their insights in a few columns of a table. At the same time, in order to start seeing the proverbial forest beyond the trees, we better look past the idiosyncrasies of each individual case and untangle the web of causal relationship for the sake of modest generalization. Hence, the Compliance Database and this working paper try to strike a balance between capturing as much information from the rich causal accounts offered by case-study research while keeping comparisons across cases possible.

As of the moment of writing, the database presents 80 individual works covering 350 policy implementation cases, tracks more than 70 explanatory variables and lists 1100 relationships between a variable and a specific outcome. In this paper we do not aim to exhaust all opportunities for analysis that all this information offers. Instead, we focus on a few aspects that bear the greatest importance for the field of EU compliance/implementation/transposition research.

Our findings indicate that what we know about compliance in Europe is based on a rather skewed sample of policy areas – three out of every four studies deal either with environmental or social policies – areas which albeit important have only limited legislative significance at the EU level vis-à-vis internal market and agriculture legislation. Next, we find that almost all studies that look beyond the transposition phase uncover serious shortcomings with administrative implementation and law application of the directives in the countries they study. While part of the puzzling findings could be due to selection effects, the scale of the compliance gap appears worrying. Reviewing the explanations of compliance proposed by the authors, our analysis shows that factors related to administrative capacity and co-ordination have the greatest explanatory leverage, while oft-studied variables like veto players exhibit an inconsistent influence. For other factors, like the misfit between the EU and the existing national legislation, the literature is quite univocal that they are rarely important. Some of

these causal inferences, however, remain suspect before a more formalized meta-analysis of the literature is conducted given concerns about the methodological rigor of many of the case studies. The major problem we identify is that authors often fail to consider the possibility that a variable might have an effect, *if* the effect is not in the direction they expect.

The remainder of the paper is structured as follows. The next section provides details about the scope of the review, the coding approach, the structure of the database and the logic of the presentation of the data. Next, the scope of EU compliance research is discussed, including observations on policy sectors, countries and time periods studied. The subsequent section discusses the conclusions about the state of compliance with EU law in Europe that the literature suggests. We do that with regard to four distinct stages of compliance – transposition timeliness and correctness, administrative implementation and law application. Next, we turn towards an overview of the causal relationships uncovered by the literature by summarizing the explanations of compliance problems. Following this section, we discuss some general methodological issues related to the case study approach. The final section contains the conclusion of the paper.

2. SQUARING THE CIRCLE: SYSTEMATIC REVIEWS OF CASE STUDIES OF EU COMPLIANCE

Systematic overviews of case study research are rarely attempted. While meta-analysis is a well-established technique to re-analyze together results from statistical research, case studies are seldom systematically compared outside the context of the casual literature review section of an academic article. The fact that case studies are rarely *systematically* compared is problematic, because it allows for cherry-picking results, cases, and studies that support one's point of view while neglecting studies and cases which conflict with the author's favored interpretation.

The reason for the scarcity of systematic overviews of case study research is the nature of the case study as a research method and a style of reporting evidence. The strengths of the case studies are a greater concern with internal rather than external validity, attention to causal mechanisms rather than the estimation of causal effects (Gerring, 2007; Goertz, 2006). Case studies are more suited for producing theory and insight rather than testing hypotheses (Yin, 1994). They obsess with matters of sequence and timing in the causal process, and tend to employ a complex web of variables that interact and feedback on each other. The conventional distinction between dependent (outcome) and independent (treatment) variables that is the basis of quantitative research designs is often problematic for qualitative research because causality appears recursive with feedback loops between outcome and effect (Brady and Collier, 2004). What case studies do, is to follow tightly-coupled events unfolding rather than focus on a well-defined single outcome (Gerring, 2007).

Some qualitative researchers would even argue that notions of causality do not apply to their work and what they do can best be described as 'thick description' or narrative. In practice, however, these more extreme positions are relatively rare, and most qualitative research does more than flirt with variable-centered approaches.

Is there a point in comparing systematically case studies given their idiosyncrasies and aversion to generalization? As long as we accept that inference is the goal of social science (King et al., 1994), we should inquire into how the findings of individual case studies square with each-other, and try to paint the bigger picture. Granted, within-case analysis has a

different *modus operandi* than the cross-case logic on which comparative and quantitative work is based (Gerring, 2007). However, juxtaposing within-case analyses can approximate cross-case designs, thus providing inferences that go beyond the individual cases being analyzed in each particular study.

In fact, qualitative comparative analysis has been employed as a tool to summarize the results of individual work and identify patterns of associations between variables (Berg-Schlosser and Mitchell, 2000). Crisp-set and fuzzy set analysis (Ragin, 2000) can provide a bridge between the complexity of each analysis and the parsimony of a dataset.

The difficulties in systematically coding and comparing case studies are exaggerated by the ideal-typical view of case study research sketched above. In reality, most published research in mainstream academic journals is based on a positivist framework of a kind. Even more, most investigations labeled as case studies in fact are composed of several *observations*, which technically do not qualify them as within-case analysis. Furthermore, in research on Europeanization the outcome of interest – adaptation, or compliance – is well-defined albeit the fact that different researchers might focus on different aspects of this phenomenon.

In short, despite the inherent challenges of systematically coding case study research, we embarked on a project to identify, analyze, code and present in a schematic form all qualitative research on EU implementation/compliance/ Europeanization. The next section will provide details on our reviewing approach.

3. REVIEWING APPROACH

The scope of our review was defined as all articles published in academic journals and all books and book chapters that we could identify in the field of EU compliance, implementation, transposition, or Europeanization studies. From the literature on Europeanization we focused only on those studies which dealt with the Europeanization of policies, and from those we selected the articles that deal with policies that are based on hard law, and subject to the Community method of decision making. We started the identification of our population so defined by using the Web of Science Social Science database and proceeded with snowballing from this initial list. In the course of collecting the studies we extended our definition to include many working papers which have been included in reputable series. We did not restrict ourselves only to political science and public administration journals but tried to reach into specialized sub-fields like environmental studies as well.

For each article we recorded the bibliographical information, the abstract (if available), and the SFX link. We classified it in terms of countries covered, time period of the research, the type of evidence used (documents, interviews with policy experts or stakeholders, surveys, etc.); the type of research – within-country, cross-country, country survey, etc.

For each article (or book, working paper, or book chapter) we identified every case being analyzed. Some articles have only one case, but most investigate more than a single case – typically a handful of directives within a particular policy sector within a particular country. Thus in addition to studies, *cases* present a second level in the structure of the database. For each case we coded the policy area and the sub-policy area. The policy area classification follows closely the EURLEX Subject Headings. For example Working Conditions was identified as a sub-field for the field Social Policy. We also recorder information on the country that is studied in the particular case, as well as the type of legal act being analyzed – in most of the cases that was an EU directive. We recorded the short name of the legal act, the full reference, as well as the EURLEX natural number of the legislation (where available).

For each case we coded the authors' assessment of the state of compliance. We disaggregated the level of compliance into four distinct aspects. First, we focused on the

timeliness of transposition (legal implementation) – whether the EU law was incorporated into the national legal system on time (within the specified deadline). Where available we also noted the length of the delay (in months). Second, we focused on the correctness of the legal implementation. This second outcome goes beyond the formal indicator of transposition within the deadline and tracks whether the national measures sufficiently and correctly incorporate the European legislation. Third, we focused on administrative implementation. Administrative implementation refers to all actions that the public administration needs to undertake in order to implement the legislation – adopting all secondary and tertiary legal acts, setting up the necessary organizations and procedures, arranging for inspection and control, staffing and financing the implementation authorities etc. Finally, we coded separately the state of compliance in terms of law application. This outcome goes beyond the efforts of the government to transpose and implement the legislation and looks into societal compliance with the legislation. Here, the responses of the regulated entities – citizens, companies, NGOs, etc. – to the legislation (policy) are evaluated.

Next to studies and cases, the third level of the database collects information on the causal relationships and the variables studied. The following procedure was employed. First, we coded the value of each variable mentioned in the text. In order to get in the database, the variable had to receive more than a passing mention from the authors, although it did not have to be singled out for an explicit evaluation. Apart from the value, we also recorded the relationship of this variable to each of the four outcomes. Here, we followed the conclusions of the article, rather than our assessment whether a certain variable seems related or not. Recording both the values and the relationships as stated, allows us to conduct a separate analysis in the future, while for the purposes of the database we remain faithful to the original conclusions. Where possible, we provide a short citation making explicit the causal relationship that we are coding. Furthermore, we provide one short general statement that captures the main conclusion of the article, and in situations where the articles provide explanatory research, the major causal insight suggested. Finally, we note if any significant interaction effects are either explicitly or implicitly discussed. Overall, our coding strategy allows for a rather comprehensive overview of the articles by providing information on four

levels of compliance, the values of the main independent variables mentioned, original statements about causal links, and short summaries of the main arguments.

Two coders analyzed the articles. In the beginning of the process, four articles were coded by both, and then discussed, in order to assure a high degree of inter-coder agreement and reliability of the coding process.

Having presented our reviewing approach, the next section of this paper turns towards presenting the main findings about the distribution of the literature on EU compliance across sectors, countries, time periods, literatures, and types of case studies.

4. SCOPE OF EU COMPLIANCE RESEARCH

4.1. Sectors

In total, eighty qualitative studies on EU compliance have been collected and analyzed in the framework of this EU compliance research database. Studies examine compliance with EU secondary legislation in the following policy sectors: Agriculture, Competition, Energy, Environment, Free movement of persons, Health protection, Human Rights, Internal Market, Right of establishment and freedom to provide services, Security, Social Policy, Telecommunications and Transport.

The field of environmental policy gets by far the most attention of qualitative researchers. In the majority of all studies, compliance with directives and regulations dealing with environmental policy is investigated. However when we look at the level of *cases*, the social policy sector accounts for 50 percent of all cases of compliance being analyzed in the entire literature (Caporaso and Jupille, 2001; Causse, 2008; Dimitrova and Rhinard, 2005; Dimitrova and Toshkov, 2009; Duina, 1997; Falkner et al., 2005; Furtlehner, 2008; Hartlapp, 2009; Krizsan, 2009; Leiber, 2007; MacRae, 2006; Martinsen, 2007; Niskanen et al., 2010; Panke, 2007; Schulze, 2008; Sedelmeier, 2009; Treib, 2003; van der Vleuten, 2005; Wiedermann, 2008). Another 30 percent of the cases are in the environmental sector (G. Andreou, 2004; G. Andreou, 2004; Bähr, 2006; Boh, 2004; Börzel, 2000; Borzel and Buzogany, 2010; Bugdahn, 2005; Demmke, 1994; Di Lucia and Kronsell, 2010; Jordan, 1999; Karaczun, 2005; Kinunnen, 2004; Knill and Lenschow, 1998; Laffan and O'Mahony, 2004a, b; Mocsari, 2004a, b; Saarniit, 2004). From the remaining sectors Transport and Telecommunications (7 cases) (Berglund, 2009; Borissova, 2002; Héritier et al., 2001; Kaeding, 2007; Kryczka, 2004; Mastenbroek, 2007b), Internal Market (5 cases) (Bailey, 2002; Dimitrakopoulos, 2001; Mastenbroek, 2007a; Rentea et al., 2008; Versluis, 2007), Energy (4 cases) (Berglund, 2009; Claes, 2002; Maniokas, 2009; Mastenbroek, 2007a) and Agriculture (Neyer, 1999; Steunenberg, 2006, 2007) have only a few studies each.

Based on our findings, we can state that social and environmental policies get by far most attention from qualitative researchers on EU compliance which cannot be explained by the comparatively small amount of legal acts adopted by the EU in these policy fields.

4.2. Countries

The qualitative studies analyzed in the framework of this database project have researched compliance in 27 countries. There are no significant biases with regard to the countries being studied. Understandably, the big EU member states get the bulk of the attention with Germany accounting for 14 percent of all cases, the UK for another 11 percent and France for 7 percent. The Netherlands is relatively well-studied with 34 cases or 10 percent from the total. The member states from Central and Eastern Europe (CEE) have received considerable scholarly attention – in fact 20 percent of all cases of compliance concern one of the CEE countries with Poland and Hungary marshaling most interest from the group.

Somewhat surprisingly, countries that have rather ‘aberrant’ behavior in terms of general transposition and implementation patterns (either well above or below the average) are relatively under-studied. Portugal, Finland and Luxembourg account for seven cases each, Sweden for eight and Greece for ten. Cyprus and Malta have no record in the database at all. There are good reasons for this situation – qualitative research in these countries is difficult due to language problems and access to the bureaucracy in some cases. Unfortunately the consequences of this under-representation are serious for our interpretation of the findings of the literature. The case selection of countries for study at the meta level (the literature field) is subject to selection bias as the selection mechanism seems correlated with the outcome (compliance), countries that are less likely to have strong compliance record are also less likely to be conducive for research and, hence, selected less often for investigation. In the aggregate, this will bias the causal inferences.

4.3. Time periods

Time period is a categorical variable that tracks the time period in a general way. It refers to the time between the adoption of the directive and the end of the transposition deadline. If the period spans over more than five years, the more recent one was coded.

Qualitative research on compliance is mainly conducted on EU directives and regulations adopted in '1990 - 1995' and '2000 - 2005'. Data for both time periods show that 25 percent of the studies looked at the two time periods. Compliance with directives and regulations adopted in the time period between 1995 and 2000 is studied in about 12 percent of the studies. 7.5 percent of the studies analyze compliance performance in relation to the most recent EU secondary legislation ('2005 - 2010'), followed by about 6 percent in the time period between 1975 and 1980. For this time period we can note that qualitative compliance research mainly focuses on the implementation of the Equal Pay and Equal Treatment directives (see Caporaso and Jupille, 2001; Duina, 1997; MacRae, 2006; Martinsen, 2007; van der Vleuten, 2005). Compliance with EU directives and regulations adopted in the time periods '1980 - 1985' and '1980 - 2000' is examined in 2.5 percent of the studies. Only one study deals with EU secondary legislation adopted in the time span between 1980 and 1990 (see Börzel, 2000). We can note that qualitative research for legislation adopted in the time span between 1975 and 1980 focuses on equality directives. Analysis of most recent legal acts is comparatively limited.

4.4. Type of case studies

Different types of case studies are analyzed for the EU compliance research database. Most of the studies, nearly 34 percent, can be classified as cross-country comparisons. Within country comparison are conducted by approximately 20 percent of the studies. Single case studies are examined to an extent of 27.5 percent. Sector overviews are less frequent and only conducted in 15 percent of the studies. Furthermore, three studies are classified as a combination of within and cross-country comparison (see (see Börzel, 2000; Caporaso and Jupille, 2001; Kaeding, 2007)).

4.5. Literature fields

It is worth noting in passing that the topics of Europeanization, transposition and implementation have spilled over from the public administration and political science journals to more specialized fields like communication science, environmental policy and beyond. This pattern mirrors the development of the general implementation literature as described by Barrett (2004). Little of the theories of Europeanization, however, seems to spill-over into the more specialized fields and the articles published there tend to have a more idiosyncratic approach to compliance.

The overview of the distribution of the case studies provided some important insights about the development of the research field. First most of what we know about compliance is based overwhelmingly on studies of social and environmental policy. Second, several ‘outlying’ countries are under-represented leading to concerns about a selection bias at the meta (literature) level. Third, the interest in issues of compliance, but little from the theories of Europeanization developed over the last 15 years, has spilled over from the general public administration/political science literature into specialized and policy-specific academic fields. Having outlined the broad developments of the research field, we will now turn to a summary of inferences about the *state of compliance* with EU law that the scholars make.

5. STATE OF COMPLIANCE

As outlined in the previous section, we record information with regards to several different aspects of compliance – transposition delay, formal transposition, administrative implementation, and (societal) law application. In this part of the paper we will summarize the findings of the literature with respect to each of these stages.

5.1. Transposition delay

Not surprisingly given the relative ease of obtaining data on this aspect of compliance (which also makes it the aspect of choice for quantitative researchers) most studies record information on the transposition delay for their cases. In our database, delay is configured as a binary variable indicating whether transposition was on time (including case that were completed before the official deadline) or delayed. In 69 percent of the cases, transposition timeliness is studied. In more than half of the inquiries transposition is delayed (about 65 percent). 85 percent of the inquiries, which discovered transposition delay, also give information on the state of formal transposition (the correctness of transposition, see below). Respectively, formal transposition is correct in 46 percent of the cases. Hence, when implementation is delayed, no conclusions can be made for the state of formal transposition. Data on practical implementation and application are so limited that no correlations could be found.

Transposition is on time in 35 percent of the. In 92 percent of the cases where transposition is on time, information on the state of formal transposition is available. Formal transposition is correct in 76 percent of the cases. Hence, we can note a certain correlation between timely and correct transposition.

5.2. Formal transposition

In addition to the timing of transposition measures, scholars often comment on the correctness of the transposition. In some cases, formal transposition is studied by different studies for the same legal acts and countries. In about 84 percent of the cases, outcomes for

formal transposition are available. Formal transposition is incorrect in 51 percent of the cases with the limitation that formal transposition only encounters minor problems in 33 percent of the cases. Therefore, formal transposition is incorrect or faces serious implementation problems in 18 percent of the inquiries which study formal transposition (see Börzel 2000; Börzel and Buzogany 2010; Caporaso and Jupille 2001; Demmke 1994; Di Lucia and Kronsell 2010; Hartlapp 2009; Kinnunen 2004; Wiedermann 2008). Based on our results, we may state that formal transposition in the member states is overall good with correct formal transposition in 49 percent of the cases and minor transposition shortcomings in another 33 percent of the cases.

5.3. Administrative implementation

Administrative implementation is the next stage of the compliance process that we look into. It deals with the more practical rather than the legalistic side of compliance, but it still refers mainly to actions that the public administration undertakes in order to ensure compliance. Administrative implementation receives much less attention by qualitative researchers compared to formal transposition. The state of administrative implementation is analyzed in 19 percent of the cases. In total, practical implementation is incorrect, insufficient or faces problems in 97 percent of the studied cases. Minor implementation problems are only encountered in 3 percent of the inquiries. Practical implementation was sufficient in no more than 3 percent of the cases (see Bailey 2002; Duina 1997). With the caveat that qualitative research on practical implementation is relatively limited compared to qualitative research on formal transposition, we can still conclude that in the vast majority of cases serious problems at this stage of compliance occur.

5.4. Application

Application deals with the state of realization of the policy by the addressees of the legal act and is studied in 14 percent of the cases. It receives the least attention of qualitative researchers on compliance. Only in one case application of the studied legal act is sufficient (see Bailey 2002). In 98 percent of the inquiries, application is insufficient, encounters

application problems or simply lacks completely. Minor application problems are only faced in relation to one legal act (see Slepcevic, 2009). Based on the qualitative studies analyzed in this database, we can note that there is a serious lack of research on application, as well as a serious lack of application by the addressees of the legal acts.

What the literature made clear so far is that the problem with compliance in Europe is existent and has quite dramatic proportions when we look beyond transposition, according to the vast majority of the studies. Next, we will turn towards an exploration of the some of the central hypotheses investigated and explanations proposed.

6. EXPLANATIONS OF NON-COMPLIANCE

Since there are nearly as many case studies as different lines of argumentation, it is nearly impossible to give a complete overview of the explanations by the authors. In this section we will describe the most relevant arguments and we try to identify the most common patterns in the literature. We will focus on the variables that appear most often in the focus of the studies.

Starting with one of the most prominent ideas in the field of Europeanization studies – the so-called ‘misfit’ or ‘goodness-of-fit’ argument, we note there is, overall, little empirical support in its favour. Four variations of the misfit argument can be found in the literature: institutional, legal, normative and policy misfit. The policy misfit argument is the most prevalent by far, as it can be found in 262 of all cases of the database. Legal and institutional interpretations of the misfit arguments are found only in five cases each, and only two cases look into normative misfit.

Although most of the studies comment on the degree of misfit, few of them find that it played a significant role for compliance. With regard to transposition delay, negative effects are reported in 20 cases, positive effects in seven cases, and for the rest authors either explicitly note that misfit did not play a role (16 cases) or, in what amounts to the same conclusions, do not discuss further the variable, hence we can assume that it did not play a role. With regard to transposition correctness, in 38 cases negative impact is mentioned and in 20 cases positive impact is reported. Finally, with regard to administrative implementation negative effect of misfit is found in 15 cases with no instances of positive influence.

It should be reminded that in most cases ‘misfit’ is mentioned only in passing. Only in six studies, the authors conclude that the policy misfit plays a *major* role in explaining the cases (Duina 1997; Börzel 2000; Bailey 2002; Jordan 2004; Leiber 2007). The information about the degree of misfit between new European and old national policies is often purely descriptive and not linked to any causal argument to explain the implementation process. It describes how big the gap has been for the national government in a specific case and gives the authors a starting point for further analysis on the case. This is not surprising, because Knill and Lenschow already concluded in 1998 that the degree of policy misfit was not able to explain the outcome and that further factors have to be researched (see also Haverland, 2000).

Next, we turn to the effect of the enforcement. Arguments about the effect of enforcement measures by the European Commission are also widespread (114 cases). These range from informal pressure and all the steps of an infringement procedure to a threat of a financial sanction in a §228 proceeding. In many cases the start of an infringement procedure is mentioned without describing any explanatory influence on the case. In 45 percent of the cases where any information on enforcement action is mentioned, an effect on implementation is described. Authors mostly argue that the increasing pressure by the Commission is speeding up the process or is helping to overcome inertia. Five studies identify EU enforcement actions as the most important explaining factor (G. Andreou, 2004; Flynn, 2004; Martinsen, 2007; Panke, 2007; Sairinen and Lindholm, 2004).

The enforcement argument is also used in combination with the pressure from domestic actors to explain successful implementation (Jordan, 1999; MacRae, 2006; van der Vleuten, 2005). Quite similar to this combination are the concepts of change agents (Versluis, 2004) and support-building (Knill and Lehmkuhl, 1998). They have in common that they describe different aspects of the so called “two level game”. The focus of analysis is on the interplay between the demand to implement new policies and domestic actors or groups, which try to reach their policy goals by supporting the implementation process. The change agent explanation is focusing on domestic key actors which facilitate the change. The support-building argument describes the momentum for domestic groups which appears when a new policy has to be implemented which is congruent with the preferences of the group.

It can be seen that the misfit and EU enforcement arguments, which describe the need for change and the pressure to act, have only little explanatory power if they stand alone. That is why nearly all authors take a deeper look at the national administrative entities or into the domestic policy arena with its preference constellations. The comprehensive study from Falkner et al. (2005) is a good example. On the basis of 90 country / directive cases in the social policy sector they show that the goodness of fit argument is not a sufficient explanation and that administrative problems and domestic opposition have greater explanatory leverage. The attention to administrative problems brings us a full circle to the earliest academic research on the implementation of EU law. The first comparative case study on the

implementation of directives in Europe from Siedentopf and Ziller (1998) already concluded that administrative problems are a major explanation. Since the national ministries are mostly in charge of the technical side of the implementation, the argument is used to explain the correct and timely transposition and the practical application. This argument has been marginally used since then and had a comeback under the term ‘administrative capacity’ after the accession of the new eastern member states. Several case studies which compared the implementation performance of the new members concluded that the administrative capacity was the most important explanation (Boh, 2004; Caddy, 2000; Maniokas, 2009; Zemeckis et al., 2005). But it also explained practical implementation in “old Europe” (Bugdahn, 2005). Furthermore there are the related concepts of administrative overload, reform and culture.

Another important argument in this area is the administrative coordination between national ministries and / or agencies during the implementation process. Coordination problems often lead to a conflict and in the end to delay and incorrect transposition of the directives. Six studies concluded that the administrative coordination was the decisive factor to explain the cases (G. Andreou, 2004; Demmke, 1994; Dimitrova and Toshkov, 2009; Mocsari, 2004a; Steunenbergh, 2006). Administrative coordination can also have a decisive effect in the phase of practical implementation (McNally, 2009).

The variables with the highest explanatory power can be found in the domestic policy arena. These include the actors’ preference configurations, veto players, the involvement of societal institutions, policy networks, political salience, and government change. Because every directive has to be transposed into national law, the domestic sequence of the formal transposition does not differ greatly from the “normal” national legislative proceeding. Consequently, the tools of policy analysis in a nation-state also work in this research area. It is increasingly common to explain the transposition of European policies with the help of theories and variables borrowed from the study of domestic politics.

The preference configuration of the involved actors is often described but rarely an explicit causal link with compliance is drawn. Actor-oriented perspectives are used to explain a case if there are veto players, a strong domestic opposition, a domestic conflict and other variations of societal actor involvement. Differences in interpretation of the veto players argument and

the related impact of the preference constellation are substantial. According to Tsebelis' (2002) "rule of absorption", not the number of veto players, but the distance between their preferences is crucial. Two studies concluded that the preference constellation of policy-specific veto players is the major source of explanation (Di Lucia and Kronsell, 2010; Steunenbergh, 2007).

Twice as many authors conceptualize veto players with reference to domestic conflict and opposition. Overall, the veto players argument has a higher explanatory power (86 percent vs. 66 percent with effect), because it defines a sufficient reason for legislative blockade. Domestic conflict and opposition variables are sometimes used to describe the domestic political landscape in a specific case which can eventually lead to a blockade and a delay. Several authors argue that a domestic conflict is the main reason for delayed transposition (Bähr, 2006; Hartlapp, 2009; Kinunnen, 2004; Laffan and O'Mahony, 2004b). Schimmelfennig et al. (2003) and Panke (2007) argue that the conditionality of EU enforcement only works successful if the level of domestic conflict is low.

Other authors use the term domestic opposition, which can be understood as a logic precondition for domestic conflict but also needs some sort of political salience to go this step. Dimitrova and Toshkov (2009) have shown that a domestic opposition together with political salience can even sabotage the positive effect of a well coordinated administration. It furthermore has been argued that the level of domestic opposition is depending on the degree of misfit (Treib, 2003).

Advocacy coalitions can be understood as the counterpart to domestic opposition. In this case there is an alliance of actors with preferences in favor of the policy changes introduced by the directive (Bähr, 2006; Falkner et al., 2005; Héritier et al., 2001).

In the last years, salience emerged as an explanatory variable which is often used as a complementary factor that interacts with other mediating factors in the domestic political arena (Versluis 2004). If the issue or political salience is high, it can lead to a higher prioritizing of the government and to a faster implementation (Kaeding 2007) or it wakes up the domestic opposition which can lead to a highly politicized domestic conflict causing delay.

Versluis (2007) also showed that issue silence has a big influence on the practical implementation of EU directives.

It is also very common to describe the various forms of involvement with third party actors, which have a stake in the implementation process, with their specific preferences. These non-state actors range from business / industry associations and trade unions, to environmental groups, other NGOs, churches and various interest groups. Sometimes it is reasoned that the lack of participation slows down the domestic politics, but mostly there is some kind of opposition by these actors which can evolve in a domestic conflict and thereby hinder the timely and correct transposition. The involvement of interest groups has a major effect formal implementation (Börzel, 2006; Héritier et al., 2001) and can help to achieve a successful practical implementation (Borzel and Buzogany, 2010; Niskanen et al., 2010). Nunan (1999) emphasized that government actors play a key role in the formation of policy networks and thereby often determinate what type of interest gains access.

Sometimes the decisive variable to explain a delay or incorrect transposition is a change of government. This variable is not used often, but when it appears it has a tremendous effect, because it changes the preference of the most important actor in the domestic arena (Héritier et al. 2001, Falkner et al. 2005, Mastenbroek 2007).

Last but not least, the features of the national implementation measures (NIM) are often described to have an effect on the formal implementation. The most prominent ones are issue linkage, package law and other various transposition techniques (e.g. Dimitrova and Rhinard 2005, Versluis 2007, Berglund 2009). These variables mostly have a negative effect on the timeliness and correctness of the formal transposition. There are also specific variables to explain problems in the stage of practical implementation. These can be grouped into lack of resources or qualified staff and expertise, problems with supervision and insufficient enforcement tools (Neyer, 1999; Versluis, 2007).

To conclude this section we identify the two most common patterns in the case studies which deal with the implementation of directives. One commonly used design contains compact descriptive information about the degree of misfit and enforcement actions by the Commission and an explanatory emphasis on administrative capacity / coordination,

preference constellations of domestic actors or other specific. The second pattern is an explanation by a combination of interdependent or mediating variables. As described above, many authors have a closer look on the interaction effects of different variables to identify the conditions in which a specific variable can unfold its effect.

7. IN PLACE OF CONCLUSION: METHODOLOGICAL ISSUES AND CASE STUDY RESEARCH

In this paper we offered a broad overview of more than 80 studies of compliance/Europeanization/implementation in Europe. Instead of repeating our main conclusions from the previous three sections, in this conclusion we will discuss the methodological lessons that can be learned by scrutinizing these literatures. In addition to the substantive inferences about the state and causes of (non)compliance in Europe, the large-scale literature review that we conducted, allows for reflections about the use of the case study as a method for doing social scientific research.

We find that many of the purported advantages of case studies are not readily observable in the literatures that we analyzed. Attention to the reliability of measures is sketchy and *triangulation* (Yin 1994) is rarely attempted. Interviews with interested parties or with policy makers are too often accepted as evidence at face-value. Finally, authors disregard too easily evidence for relationships (or associations between variables) if they do not go in the previously-hypothesized direction.

In principle, case studies allow for great precision and substantive evaluation of the outcome – transposition, implementation, law application, etc. In this regard, the case studies we reviewed do provide added value in comparison to large-N strategies that need to rely on readily-available databases like EURLEX, or their national equivalents. Operationalization of the explanatory variables used in the case studies, however, is often lacking. There are almost no examples where researchers set prior benchmarks to which they measure their variables, e.g. administrative capacity. While in some cases operationalization and measurement are carefully conducted (see for example the operationalization of misfit in Falkner et al. 2005), more often than not statements about the values of variables are based on a rather ad hoc basis.

More importantly, however, case studies fail to consider associations between variables unless the link is in the direction expected by the researchers. In a small-N study of the implementation of five directives the articles would often conclude that *misfit*, for example, does not have an effect on compliance if in all five cases the misfit was big and compliance was

successful. Any formal method of data analysis, either quantitative or qualitative, would be forced to conclude that misfit has a positive effect. Since this conclusion would be counter-intuitive and contrary to the hypothesis of the researcher, what is often reported instead is that *misfit* did not exercise a causal effect. This practice is rather puzzling and counter-productive. One way to understand it is to be reminded that case studies usually have many more inferences than observations (King et al. 1994), hence in order to avoid over-determined outcomes researchers employ their substantive background knowledge to exclude potential explanations even if the associations between independent and dependent variables seem strong. Another way to rationalize this practice is to purport that case study researchers use informally a kind of Bayesian updating of prior beliefs to reach their conclusions: if the prior odds are stacked overwhelmingly against a possible positive influence of misfit on compliance, then the actual data collected in the context of a single study cannot overturn the prior confidence in the fact that misfit cannot have positive effect. A third way of thinking about this paradox is to imagine that case study researchers have access to information beyond what they report that makes them certain that although the associations between variables are present, in fact no causal influence was exercised. Whichever of the three perspectives we accept as closer to how case study researcher reason, the practice of ignoring evidence of systematic associations of variables has obvious drawbacks. First, we might be missing important causal links simply because they seem counterintuitive or go against the accepted wisdom of the day. Second, cherry-picking findings (positive, negative or null) to report leads to a serious selection effect in the aggregate since we do not know in how many cases certain variables were considered but in fact were found unimportant. In fact, the database on which this review is based can provide a systematic check of these concerns since, in addition to the causal inferences advanced by the authors, we have coded separately the *values* of each variables mentioned, so that an independent analysis in the aggregate is possible.

Finally, it is instructive to see how the findings of the review of the qualitative literature on compliance reported here and the findings from the review of the quantitative literature reported in Toshkov (2010). The meta-analysis of the statistical studies of transposition and implementation of EU law concluded that for several variables we have

relatively strong evidence that they influence the timeliness of formal implementation: administrative efficiency, coordination strength, and parliamentary scrutiny have positive effects while federalism/regionalism, corruption levels, veto players, the number of ministries involved, and domestic conflict have negative effects on compliance. The findings about the influence of misfit, corporatism, political constraints, type of government and number of parties in government, bargaining power, country disagreement with a directive, EU level conflict, discretion, and the directive voting rule are mixed and inconclusive. In fact, the qualitative literature seems to agree with these findings. As the discussion of different explanatory variables offered in this paper showed, general and specific factors related to the public administration, e.g. administrative coordination, are often important. Interest-based approaches also have strong explanatory potential, at the expense of more general arguments like the misfit thesis. Understandably, quantitative research has paid more attention to the institutional features of the nation states, which are held constant in the typical case study, but the findings about their impact are contradictory. All in all, the qualitative and the quantitative literatures converge towards of perspective on the implementation of EU law that emphasized the importance of variables related to the public bureaucracies and processes in the general case, and the importance of veto players and their interests in more specific situations defined by the salience and other features of the European legislation.

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